



9200/2685

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
Persson et al.)
Serial No. 08/384,456) Quochien B. Vuong
Filed: 2 February 1995) Examiner
For: **Mobile Assisted Handover Using CDMA**) Group Art Unit 2685
Attorney's Docket No. 4015-5054)

Raleigh, North Carolina
31 August 2004

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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SEP 07 2004

Technology Center 2600

Petition Under 37 C.F.R. § 1.181(a)

To Withdraw Application from Abandonment

Pursuant to 37 C.F.R. § 1.181(a), Applicant herewith Petitions that the application be withdrawn from the Examiner's holding of abandonment.

Applicant received a Notice of Abandonment dated 25 August 2004. The Examiner indicated that the application was abandoned because of Applicant's failure to respond to the Office Action dated 24 October 2003 having a reply due date of 24 January 2004. However, Applicant notes that a response to the Office Action dated 24 October 2003 was sent to the Patent Office on 26 January 2004. A copy of that response is enclosed (Exhibit 1). Because 24 January 2004 fell on a Saturday, the reply due date was extended without penalty to 26 January 2004, which was the following Monday. Applicant notes that the Certificate of Mailing is dated

26 January 2004, and signed by Kathleen Koppen. The signed Certificate of Mailing represents *prima facie* evidence that the response was, in fact, timely filed.

As further evidence that the response was received by the Patent Office, Applicant herein encloses a copy of the postcard received back from the Patent Office with the date stamp of 29 January 2004 (Exhibit 2). This postcard, coupled with the Certificate of Mailing, is more than adequate to show the response was timely filed and received by the Patent Office.

Accordingly, Applicant requests that the application be withdrawn from abandonment and the case examined in light of the response previously filed.

If any fees are required, the office is hereby authorized to charge them to deposit account 18-1167.

Respectfully submitted,

By:

COATS & BENNETT, P.L.L.C.

Jennifer K. Stewart
Registration No. 53,639

P.O. Box 5
Raleigh, NC 27602
Telephone: (919) 854-1844

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATE POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID, IN AN ENVELOPE ADDRESSED TO: **Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**

Signature: Kathleen Koppen

Date: 8/31/04



EXHIBIT

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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Persson et al.

Serial No.: 08/384,456

Filing Date: February 2, 1995

Docket No.: 4015-5054

Title: Mobile Assisted Handover Using CDMA

Examiner: Quochien B. Vuong

Group Art Unit: 2685

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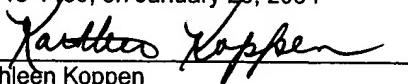
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Mail Stop NON-FEE AMENDMENT
Commissioner for Patents
P.O. Box 1450
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 26, 2004


Kathleen Koppen

RESPONSE PURSUANT TO 37 C.F.R. §1.111

This paper is being filed in response to the Office Action mailed 24 October 2003 having a reply due date of 24 January 2004. Reconsideration and reexamination are respectfully requested in light of the amendments and remarks below. While no fees should be required for entry of this response, if any fees or charges are required, the Commissioner is hereby authorized to charge them to Deposit Account 18-1167.

REMARKS

The Examiner rejected claims 102, 109, 111-115, 117-118, and 120-125 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,101,501 to Gilhousen et al, herein referred to as Gilhousen. Gilhousen discloses a method and apparatus that uses mobile directed handoff to provide soft handoff in a cellular telephone system. In general, a mobile unit (mobile terminal) in Gilhousen scans the pilot signal transmitted by cell-sites located in neighboring cells to determine if one of the neighboring cell-site (base station) pilot signals becomes stronger than the current cell-site for the mobile unit (column 4, lines 31-37). If a neighboring cell-site pilot signal becomes stronger, "the mobile unit generates and transmits a control message to the cell-site presently servicing the call. The control message ... is provided to the system controller. The control message further contains information identifying the new cell-site and PN code. The control message as relayed to the system controller is interpreted that a handoff in mobile unit communications to the identified new cell-site is to begin." In other words, the mobile terminal in Gilhousen determines when to handoff to another cell-site, and which cell-site to handoff to, based on pilot signal strengths of neighboring cell-sites monitored by the mobile terminal. As such, the mobile terminal of Gilhousen directs the system controller (network controller) to handoff control from the current cell-site to a new cell-site identified by the mobile terminal.

In direct contrast, the instant invention discloses and claims a method of mobile assisted handoff. As claimed in claim 102, the mobile terminal, in communication with a first base station, provides "relative signal strengths of at least a second base station operating on a same frequency as said first base station" to a network controller. The

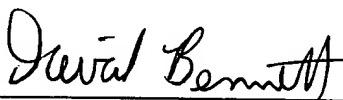
network controller then determines "to handover said mobile terminal from said first base station to said second base station based on said signal strengths." Clearly, in the invention of claim 102, the network controller determines when to initiate handoff, and what base station to handoff to, based on, *inter alia*, the signal strength measurements provided by the mobile terminal. As such, unlike Gilhousen, whose mobile terminal sends a control signal to direct the network controller to initiate handoff, the mobile terminal of the instant invention assists with the handoff by providing the relative signal strengths to the network controller. Further, unlike Gilhousen, where the network controller simply implements the handoff instructions provided by the mobile terminal, the network controller of the claimed invention makes the handoff decisions and then implements the handoff by providing instructions to the mobile terminal.

Because Gilhousen does not teach or suggest "receiving, at a network controller, one or more data messages sent from said mobile station to said first base station that indicate relative signal strengths of at least a second base station operating on a same frequency as said first base station; determining, by said network controller, to handover said mobile station from said first base station to said second base station based on said signal strengths; and handing over said mobile station from said first base station to said second base station based on said determination by said network controller" (emphasis added), as claimed in claim 102, Gilhousen cannot anticipate claim 102. For at least this reason, independent claim 102 and dependent claims 109-125 are patentably distinct from the cited art. Applicants respectfully request reconsideration and allowance of claims 102 and 109-125.

Because of the arguments set forth above, Applicants believe that pending claims 102 and 109-125 stand in condition for allowance. As such, claim allowance is solicited at the Examiner's earliest convenience. If any issues remain unresolved, Applicants request that the Examiner call the undersigned so that any such issues may be expeditiously resolved.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.



David E. Bennett
Attorney for Applicants
Registration No.: 32,194

P.O. Box 5
Raleigh, NC 27602
Telephone: (919) 854-1844

Dated: January 26, 2004



EXHIBIT

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In Re Application of:
Serial No.: 8/384456
Filed: February 2, 1995

For: MOBILE ASSISTED HANDOVER US
CDMA

PAPERS SENT:

1. OA response
2. Postcard

DO

To: Mailer ID# 4015-5054
Date Mailed: January 26, 2004

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